

August 17, 2011

Honorable Debra Freeman
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Chambers 735
New York, New York 10007

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#
DATE FILED: 8/26/11

Re: 10 civ 1681 (DF)(PAC) Dylan Johnston v. Carnegie Corporation, Ellen Bloom,
Vartan Gregorian, Jeanne D'onofrio

Dear Judge Freeman:

The defendants should be denied their request for extension for the following reasons:

- 1) Your individual rules require a recital of previous requests for extension.
Defendants request did not meet this requirement.
- 2) Despite defendants suggesting that their August 16, 2011 request for an extension would be the defendants' first, the defendants previously made a request for a 21 day extension on March 1, 2011. 14 days were granted to the defendants.
- 3) Defendants' initial request for extension was made upon false grounds. Despite claiming that council was scheduled to be in court, the case had been adjourned without a set date for rescheduling. (Ex. A p1-2)
- 4) Defendants chose not to act upon the matter for which their requested extension was granted. (Ex. A p3)


- 5) Your individual rules require a statement of whether previous requests for extensions were granted or denied. Defendants' request did not meet this requirement. Defendants were previously granted their extension request.
- 6) When granting the defendants' March 2011 extension request, Judge Crotty also Ordered that no further requests for extensions be allowed. (**Ex. B**)
- 7) Your individual rules require that the defendants state the reasons given by the adversary for refusing consent for an extension. The defendants request did not meet this requirement, nor did they ask plaintiff for his reasons for a refusal (**Ex. C p.1**), defendant offered an explanation but it was not included in their request (**Ex C p.4**)
- 8) Your individuals require that, "If the requested adjournment or extension affects any other scheduled dates, a proposed revised scheduling order ... must be attached." No such indication of whether or not it would affect other shceduled dates was made in the defendants' request.
- 9) The request for an extension would affect other scheduled deadlines in proceedings. For example, defendants' requested date for extension is September 16, which is a scheduled deadline for initial document requests, interrogatories. Plaintiff would be damaged by receipt of answer, requests, interrogatories, simultaneously on the September 16, and would not have ample time to respond to all.
- 10) Defendants suggest exhibits of amended complaint are burdensome. Other than a couple of Christmas cards, some emails, and a two page FLSA fact sheet on what an internship is and is not-- most of the exhibits are already matters on record in some format or another.

- 11) Defendants should have been on notice for additional claims due to previous correspondence and initial conference discussions.
- 12) If defendants received a copy that was in the mail longer than expected, plaintiff takes no issue with granting, in this instance, the standard time period for defendants to answer pursuant to rule whatever section such and such.
- 13) Plaintiff also gladly makes a concession of an extra three days to reasonable standard period despite defendants' March 8, 2011 statement that:

“...it is no fault of the defendants that the plaintiff has an alleged “time lag” for the receipt of his mail. The defendants have no bearing on how and when the plaintiff’s mail is delivered.” (**Defendant’s March 8, 2011 submission on record**)

For the above reasons, defendants’ request for an extension should be denied.

Respectfully yours,


Dylan G. Johnston, pro se

cc. Defendants via Kaufman Borgeest & Ryan via Fax

March 8, 2011

Hon. Paul A. Crotty:
U.S. District Court, Southern District of New York
500 Pearl Street, Rm. 735
New York, NY 10007
Via Fax: (212) 805-6304

Re: 10 CIV 1681 (PAC)(DAF)
Dylan Johnston v. Carnegie Corporation, et al.

Dear Judge Crotty,

I am writing with concerns about the defendants' recent request for an extension for an objection period.

Today, a quick call to the Chambers of Judge Bianco, asking about Ms. Rivera's scheduled appearance before him at the Eastern District of New York Court on March 7, 2011 for Rumcats v. Village of Rockville Center (cv 2009:03051) resulted in a finding that the last scheduling for the case was a telephone conference on March 2, 2011 at 4:45pm. I was told that the case has since been adjourned and has yet to be rescheduled.

Because Ms. Rivera's claim suggests a fair amount of duplicity, I respectfully request that you reconsider the decision made regarding the extension and proceed with the original March 10 deadline. Judge Freeman had cited Boykin, and to paraphrase, the defendants have been given "fair notice of what the... claim[s are] and the grounds upon which [they] rest..." and they have had ample time to anticipate any objections to the claims.

Speaking of timing, it is somewhat to my detriment that I am living in Oklahoma. Please let it be on the record that I am receiving correspondence with a fair amount of lag time. The defendants, it looks like, emailed you the request on Tuesday, March 1; however, they sent me a copy which arrived via regular mail on Saturday, March 5. Your order for the extension I received Monday, March 7. Please also take this into consideration.

Respectfully yours,



Dylan G. Johnston

cc. Defendants via Kaufman Borgeest & Ryan via Fax

March 12, 2011

Hon. Judge Crotty
United States District Judge
Southern District of New York
500 Pearl Street, Room 735
New York, New York 10007
Fax: 212-805-6304

Dear Judge Crotty:

A reconsideration of the extension for objections is necessary for three reasons:

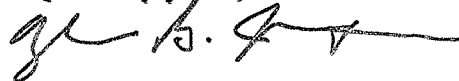
Firstly, Ms. Rivera's stated reason (being scheduled to be in court for two weeks) for needing an extension is no longer valid. Subsequently, the extension is no longer valid.

Secondly, Ms. Rivera has known of the scheduling change for well over a week without informing all parties. If an extension is still needed, the reason given initially must also be false in a respect beyond a conflict in scheduling.

Thirdly, Ms. Joan Gilbrand, partner at Kaufman Borgeest & Ryan, signed as representative for defendants on all substantive documents, including motions, memoranda of law, notices, and declarations. There was no mention of Ms. Gilbrand's unavailability in the request for an extension. Because of her seniority and familiarity with the case, it should not have been an issue for Ms. Gilbrand to proceed as scheduled.

Because of these reasons, I kindly request that the window for objections be closed as originally scheduled-- March 10, 2011.

Respectfully yours,


Dylan G. Johnston

cc. defendants via Kaufman Borgeest & Ryan



KAUFMAN BORGEEST & RYAN LLP

120 BROADWAY, NEW YORK, NY 10271
TEL: 212.980.9600 FAX: 212.980.9291 WWW.KBRLAW.COM

March 21, 2011

CARA A. O'SULLIVAN
DIRECT: 646.367.6718
COSULLIVAN@KBRLAW.COM

BY EMAIL (crottynysdchambers@nysd.uscourts.gov)

Hon. Paul A. Crotty
U.S. District Court (SDNY)
500 Pearl Street, Rm. 735
New York, New York 10007

Re: Johnston v. Carnegie Corp., et al.
10 Civ 1681 (PAC)(DAF)

Dear Judge Crotty:

As you are aware, this firm represents the defendants in the above-referenced action. We write this letter to inform the Court that, after careful consideration, defendants will not be submitting objections to Magistrate Judge Freeman's Report and Recommendation.

Your attention to this matter is appreciated.

Respectfully yours,

KAUFMAN BORGEEST & RYAN LLP

A handwritten signature in cursive script, appearing to read 'Cara A. O'Sullivan'.

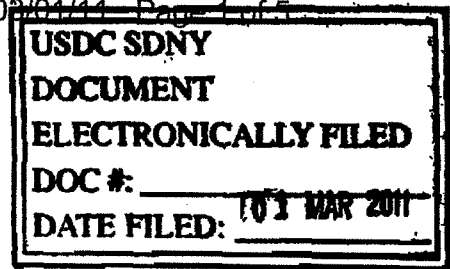
Cara A. O'Sullivan

CC: *Via Regular Mail*
Dylan Johnston, *pro se*
3904 S. Sequoia Avenue
Broken Arrow, OK 74011

kbr

KAUFMAN BORGEESE & RYAN LLP

120 BROADWAY, NEW YORK, NY 10271
TEL 212.980.9600 FAX: 212.980.9291 WWW.KBRLAW.COM



March 1, 2011

JULIE RIVERA
DIRECT: 646.367.6745
JRIVERA@KBRLAW.COM

BY EMAIL (crotty@nysdcchambers@nysd.uscourts.gov)

Hon. Paul A. Crotty
U.S. District Court (SDNY)
500 Pearl Street, Rm. 735
New York, New York 10007

Re: Johnston v. Carnegie Corp, et al.
10 Civ 1681 (PAC)(DF)

Dear Judge Crotty:

We represent the defendants in the above-referenced matter. We write your Honor in response to Magistrate Judge Freeman's Report and Recommendation issued on February 24, 2011 and received by our office on February 28, 2011.

At this time, the undersigned seeks an extension in order to submit an objection to Judge Freeman's Report and Recommendation, which is currently due March 10, 2011. This is the first request by the undersigned. As per your individual rules, we attempted to contact the plaintiff and left him a voicemail indicating our need for an extension and requesting his position on the same. At the time of this letter, we have yet to hear from him.

An extension is necessary as the undersigned is currently scheduled to appear for trial on March 7, 2011 in EDNY before the Hon. Joseph Bianco in the matter of *Rumcats v. Village of RVC*, CV-09-3051. It is anticipated the trial will last approximately two weeks. As such, the undersigned will not be able to prepare the appropriate objection by the March 10, 2011 deadline. If your Honor may, the undersigned seeks to file its respective objection by March 24, 2011.

Thank you for your consideration of this matter.

Respectfully submitted,

KAUFMAN BORGEESE & RYAN LLP


Julie Rivera

NEW YORK CITY

WESTCHESTER

LONG ISLAND

HON. PAULA A. CROTTY
UNITED STATES DISTRICT JUDGE

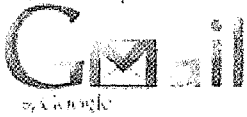
"Copies Mailed By Chambers"

MEMO ENDORSED

All parties have until 3/24/2011 to file objection. No further extensions will be allowed.
SO ORDERED: 101 MAR 2011

Paula Crotty

148595



Ex C-1
Dylan Johnston <dgjohnston@gmail.com>

Johnston v. Carnegie Corp., et al. - Answer to Amended Complaint

Cara A. O'Sullivan <cosullivan@kbrlaw.com>
To: Dylan Johnston <dgjohnston@gmail.com>

Tue, Aug 16, 2011 at 8:56 AM

Mr. Johnston:

Yesterday I received your Amended Complaint and exhibits. Given the numerous allegations and exhibits I am requesting from you an extension of time for the Defendants to respond to the Amended Complaint. I would like an extension to September 16 to respond to the Amended Complaint.

Please respond to this request by tomorrow, as if you do not consent to the extension of time to respond I must request the extension from the Court.

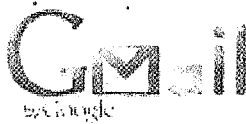
Regards,

Cara A. O'Sullivan

Cara A. O'Sullivan | KAUFMAN BORGEEST & RYAN LLP
120 Broadway | New York, NY 10271
direct: 646.367.6718 | fax: 212.980.9291
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EX C-2



Dylan Johnston <dgjohnston@gmail.com>

Johnston v. Carnegie Corp., et al. - Answer to Amended Complaint

Cara A. O'Sullivan <cosullivan@kbrlaw.com>

Tue, Aug 16, 2011 at 2:08 PM

To: Dylan Johnston <dgjohnston@gmail.com>

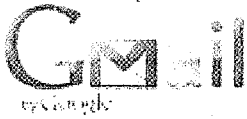
Mr. Johnston:

Just for clarification, I am not requesting an extension of the entire proceeding, only an extension of time for my clients to respond to your lengthy Amended Complaint. I will be making my request to the Court pursuant to Judge Freeman's Rules.

Regards,
Cara A. O'Sullivan

[Quoted text hidden]

EX C-3



Dylan Johnston <dgjohnston@gmail.com>

Johnston v. Carnegie Corp., et al. - Answer to Amended Complaint

Cara A. O'Sullivan <cosullivan@kbrlaw.com>

Tue, Aug 16, 2011 at 2:23 PM

To: Dylan Johnston <dgjohnston@gmail.com>

As stated below, I would like to September 16 to respond to your Amended Complaint. Although your affidavit states you sent it on August 9, my office did not receive it until yesterday. If you are willing to consent to such an extension of time to respond, I will draft a stipulation for you to sign memorializing your agreement to the extension that I will file with the court.

Thank you.

-----Original Message-----

From: Dylan Johnston [mailto:dgjohnston@gmail.com]

[Quoted text hidden]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DYLAN JOHNSTON

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

10 Civ. 1681 (DF) (PA)

- against -

AFFIRMATION OF SERVICE

CARNEGIE CORPORATION OF NEW YORK,
ELEN BLOOM, JEANNE DONOFRIO

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

I, DYLAN JOHNSTON, declare under penalty of perjury that I have
(name)

served a copy of the attached Response to defendants' request for extension
(document you are serving)

upon defendants via Cara O'Sullivan @ KBR Law whose address is 120 Broadway
(name of person served)

New York, NY 10271
(where you served document)

by Mail
(how you served document: For example - personal delivery, mail, overnight express, etc.)

Dated: Broken Arrow, OK
(town/city) (state)
August 18, 2011
(month) (day) (year)

[Signature]
Signature
3904 S. Sequoia Ave
Address
Broken Arrow, OK
City, State
74011
Zip Code
918-845-8167
Telephone Number

RECEIVED
SDNY PRO SE OFFICE

Urgent Matter In response to defendants' Request for Time Extension Please Notify
Chambers to Inform them of Response of Request

2011 AUG 23 PM 6:43